

## APPEAL NO. 010063

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). In Texas Workers' Compensation Commission Appeal No. 001841, decided September 20, 2000, the Appeals Panel reversed the decision of the hearing officer that the appellant (claimant) sustained a deep vein thrombosis (DVT) condition resulting from an injury she sustained at work on \_\_\_\_\_, and that she had disability from December 8, 1999, through December 21, 1999, and remanded for the hearing officer to obtain additional information from Dr. H and then resolve the issues of whether the claimant's DVT naturally resulted from the \_\_\_\_\_, injury and whether she had disability. Following a remand hearing held in \_\_\_\_\_, Texas, on December 4, 2000, the (hearing officer) found that the claimant's DVT of the right lower extremity was not caused by her ankle injury of \_\_\_\_\_, and concluded that she did not sustain a compensable DVT condition resulting from the \_\_\_\_\_, injury, and that she did not have disability. The hearing officer bases his determinations on Dr. H's response to the hearing officer's most recent letter of October 16, 2000, in which Dr. H changed his prior opinion because he believes that the claimant's DVT was a preexisting condition. The claimant has appealed, asserting that the evidence established that the scratch on her right leg seen soon after her \_\_\_\_\_, injury, apparently a dog scratch sustained at home, showed no signs indicative of DVT and that, in the alternative, if the claimant's DVT preexisted the \_\_\_\_\_, injury to her right lower extremity at work, the correct analysis would be whether the work-related injury aggravated the DVT. The file does not contain a response from the respondent (carrier).

### DECISION

Affirmed.

Our decision in Appeal No. 001841 contains a recitation of the evidence which need not be repeated here. Upon remand and query by the hearing officer, Dr. H wrote on October 20, 2000, that, based on the affidavit of the nurse who on \_\_\_\_\_, examined the claimant's right leg just after her right ankle was struck by a piece of metal which had fallen to the plant floor and bounced up and who stated that she observed a stasis ulcer on the claimant's right leg at that time, he was changing his opinion on causation. Dr. H then opined that the claimant had the DVT before the \_\_\_\_\_, injury, and that it is "not probable" that the DVT resulted from her being struck on the ankle by the piece of metal.

Based on Dr. H's opinion, the hearing officer found that the claimant's DVT of the right lower extremity was not caused by the ankle injury of \_\_\_\_\_, and that she did not have disability. These factual determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). Further, we find no basis to disturb the hearing officer's findings on the suggestion by the claimant that the hearing officer failed to properly analyze the evidence to determine

if the strike on the ankle aggravated the preexisting DVT. The claimant did not advance this theory at the remand hearing.

The decision and order of the hearing officer are affirmed.

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager Judge